



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 20, 1995

Ms. Cathy Cunningham
Senior Assistant City Attorney
City of Irving
P.O. Box 152288
Irving, Texas 75015-2288

OR95-063

Dear Ms. Cunningham:

The City of Irving (the "city") received an open records request for disclosure of automobile accident reports on a daily basis. You have asked whether this information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (former article 6252-17a, V.T.C.S.).¹ Your request was assigned ID# 21955.

We note initially that the city is not required to comply with a standing request for information on a daily or periodic basis. Open Records Decision No. 465 (1987) at 1. The city is also not obliged to keep the requestor informed as new information comes into existence after a request is made. Open Records Decision No. 452 (1986) at 3 (request applies only to information already in existence). However, the city may voluntarily comply with a standing request or the requestor may periodically submit open records requests for current information.

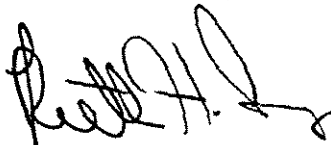
As to the automobile accident reports, the city must treat the reports as public information. Under a law that went into effect September 1, 1993, accident reports were made privileged and confidential. The statute provided that such reports could not be released until 180 days after the accident, except to certain categories of individuals.

¹We note that the Seventy-third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

V.T.C.S. art. 6701d § 47. However, those provisions were found unconstitutional and unenforceable by the United States District Court for the Southern District of Texas, in *Moore v. Morales*, 843 F. Supp. 1124.² When an amendatory act is invalid, either for failure to observe constitutional requirements pertaining to its enactment or for violation of constitutional rights, the amendment is ineffective and the original enactment ordinarily remains in full force and effect. *Culberson v. Ashford*, 18 S.W.2d 585 (Tex. 1929); *see generally* 67 TEX. JUR. 3d *Statutes* § 56 (1989). Prior to the 1993 change, section 47 of article 6701d specifically made accident reports public information. *See* Open Records Decision No. 378 (1983) at 2. Therefore, the city must release the accident reports upon request.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling may be relied upon as a previous determination under section 552.301 regarding accident reports. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Government Section

RHS/LRD/rho

Ref.: ID# 21955

cc: Ms. Sandy Lindsey
Lindsey-Drews & Associates
10330 Lake Garden's Drive
Dallas, Texas 75218

²The court imposed a permanent injunction against enforcement of article 6701d, sections 47(a), (b), (c) and (f), V.T.C.S. (concerning release of accident reports for 180 days after accident); and against enforcement of Penal Code sections 38.12 (d)(2)(A), (B), (C) and (D) (prohibiting certain persons from written contact with various individuals, including those involved in an accident, for a 30 day period after the accident).